

Briefing for Matt Leopold

Region 1 Visit – February 28, 2019

Maine Water Quality Standards / Maine v. Wheeler

- Litigation Status
 - On December 3, 2018, the Court granted EPA's motion for a voluntary remand and stay of the case pending EPA's reconsideration of its February 2015 decisions that are disputed in the case.
 - On January 9, 2019, the Court issued its scheduling order, requiring EPA to file 90-day status reports during the pendency of the stay.
 - On April 9, 2019, EPA must file a status report to the court that will "address the steps the EPA has taken and intends to take during remand and the anticipated timing, including consultation with Maine and the Tribes as appropriate; its public notice of revised decisions on remand; the opportunity for public comment on such proposal; and the status of the EPA's consideration of relevant comments it receives before reaching its final decisions on remand."
 - The case is stayed until December 3, 2019.
- State of Maine Updates
 - On January 3, 2019, Janet Mills was sworn in as Governor. Governor Mills previously served as the state's attorney general. She has publicly expressed a desire to restore "mutual trust and respect" with the tribes. *See Attachment*, "'New Era' looms for Maine and its tribes," Portland Press Herald (January 20, 2019).
 - Maine's new attorney general, Aaron Frey, has expressed similar sentiments – "We have an opportunity to restart the dialogue in a very meaningful way with our sovereign Native Americans, with the Wabanaki Nation. *See Attachment*, "'New Era' looms for Maine and its tribes," Portland Press Herald (January 20, 2019).
 - Following nomination by new Governor Mills, Jerry Reid was confirmed as the new Commissioner of the Maine Department of Environmental Protection (DEP). Jerry formerly served as an assistant attorney general in Maine, where he was heavily involved in the Maine WQS litigation and a separate case pertaining to a dispute over the boundaries of the Penobscot Indian Nation's reservation.
 - Governor Mills has also appointed Donna Loring, a former Penobscot Indian Nation (PIN) police chief and legislative representative, to serve as a senior adviser. *See*

Attachment, “Mills appoints senior adviser for tribal affairs as state tries to improve relations,” Portland Press Herald (January 23, 2019).

- Commissioner Reid has publicly pledged to support new, more stringent WQS for the waters in the Penobscot Nation Reservation and to create a process for tribal members to request stricter standards for other waterways important to sustenance fishing. *See Attachment*, “Lawmakers Endorse DEP Nominee Despite Opposition from Tribal Members,” Portland Press Herald (Jan. 30, 2019).

- **Deliberative Process / ACP/ AWP / Ex. 5**

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- Jerry Reid met with PIN environmental staff on February 6, 2019. He reported that PIN staff received the State’s plan favorably.

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